IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICITON

WRIT PETITION NO.1914 OF 2007

Condequip Engineers (India) Ltd. & others .. Petitioners.

Versus

Union of India & Others .. Respondents.

MrJ. Reis with Mr.R.N. Kachare for the petitioners.

Mrs.S.V. Bharucha with Mr.A.M. Sethna & Mr.H.P. Chaturvedi for the respondents.

CORAM : F.I. REBELLO &
J.P. DEVADHAR, JJ.

DATED : 13TH SEPTEMBER, 2007.

P.C. :

1. Rule. Heard forthwith.

2. The Petitioners herein have approached this Court against the impugned order dated 18.06.2003 and consequential order of attachment dated 10.11.2006. The respondents herein had issued a show cause notice to one M/s.Goud Equip Engineering (i) P. Ltd. The demand notice was received at the residential address of petitioner No.2. This was subsequent to the order of adjudication dated 18.06.2003.

3. The case of the petitioners is that they were neither served with the show cause notice nor

they had any notice of the proceedings and consequently the order of adjudication and consequently attachment are without jurisdiction.

4. On the other hand on behalf of the Respondents, A.G. Wasnik, Assistant Director has filed affidavit. It is set out therein that the show cause notice issued to the petitioners in the name of petitioner is inadvertently and erroneously shown as M/s.Goud Equip Engineering (I) Pvt. Ltd. when in fact it ought to have been M/s.Condequip Engineers (I) Ltd. (who is petitioner no.1 in this petition). It is further prayed that he may be permitted to rectify the mistake and issue a corrigendum to the show cause notice showing name of petitioner No.1 from M/s.Goud Equip Engineering (I) Pvt. Ltd. to M/s.Condequip Engineers (I) Ltd.

5. Admittedly, the petitioners herein did not have any notice of the proceedings. Consequently, order of adjudication and attachment would be without jurisdiction in asmuch as there has been failure of principles of natural justice and fair play. In that context, order dated 18.06.2003 will have to be set aside and consequently demand notice dated 20.07.2006 and order of attachment dated 10.11.2006.

6. We make it clear that we have not decided as to whether the respondents have a right to issue corrigendum in respect of the show cause notice, earlier issued. That will be an independent issue to be decided, if it arises. It will be open to the petitioners to raise all the contentions, that they may have.

7. Rule is accordingly made absolute in terms of this order with no order as to costs.

(F.I. REBELLO, J.)

(J.P. DEVADHAR, J.)